9

STANDING COMMITTEE ON RAILWAYS
(2004-05)

FOURTEENTH LOK SABHA

MINISTRY OF RAILWAYS
(RAILWAY BOARD)

THE RAILWAYS (AMENDMENT) BILL, 2004

NINTH REPORT

LOK SABHA SECRETARIAT
NEW DELHI

May, 2005/Vaisakha, 1927 (Saka)

SCR No. 88

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Presented to Lok Sabha on 11.05.2005
Laid in Rajya Sabha on 11.05.2005

LOK SABHA SECRETARIAT
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INTRODUCTION

I, the Chairman of the Standing Committee on Railways (2004-05), having been authorised by the Committee to present the Report on their behalf, present this Ninth Report of the Standing Committee on Railways (2004-05) on 'The Railways (Amendment) Bill, 2004'.

2. The Railways (Amendment) Bill, 2004 was introduced in Rajya Sabha on 20th December, 2004 and referred to the Standing Committee on Railways for examination and Report. They took evidence of the representatives of the Ministry of Railways on 7th and 17th February, 2005 and Ministry of Law & Justice on 28th April, 2005.

3. The Committee considered and adopted the Report at their sitting held on 10th May, 2005. Minutes of the sittings held on 7th and 17th February, 28th April and 10th May, 2005 form Part-II of the Report.

4. The Committee wish to express their thanks to the officers of the Ministry of Railways (Railway Board) and the Ministry of Law & Justice for appearing before the Committee and furnishing the material and information which the Committee desired in connection with the examination of the Railways (Amendment) Bill, 2004 and sharing with them the issues concerning the subject which came up for discussion during evidence.

NEW DELHI;
May, 2005
Vaisakha, 1927 Saka

BASUDEB ACHARIA
Chairman,
Standing Committee on Railways

REPORT
CHAPTER I

THE RAILWAYS (AMENDMENT) BILL, 2004 – AN INTRODUCTION

Indian Railways owns 4.23 lakh hectares of land, out of which 3.19 lakh hectares i.e. 75.2% of the total land holding is used for Railway operations such as track and structures including colonies and stations. Approximately 10.14% (43,000 hectares) of the total land are vacant land and 0.47% (2240 hectares) of land is under encroachment. Substantial part of vacant land have prima-facie potential for development. It was envisaged in Ninth Plan document that there is a need for additional resources from non-tariff measures. The Planning Commission had also emphasised commercial utilization of vacant Railway land and the space above such land to supplement the internal revenues of the Railways. Accordingly, the Indian Railways have started the process of identification, planning and commercial development of railway land in 2001-02 to boost their non- traditional revenues. So far the Railways have identified 61 major sites having commercial potential and started carrying out market feasibility studies. Out of 61 sites earmarked by the Railways, 9 sites have been finalised with an expected revenue of Rs.21 crore and bids for 17 sites having potential of Rs. 110 crore are under process. However, bids for 24 sites were cancelled/dropped on account of a number of reasons, for example, the land was not free from all encumbrances or encroachment and the parties did not come forward. The feasibility study is still in progress for the remaining 11 sites.

1.2 During the oral evidence, the Chairman, Railway Board apprised the Committee as under:-

> "Besides these 61 major sites, we have 54 smaller sites each having an area less than 1000 sq. meters being tackled at the Zonal Railway level."

1.3 However, Railways have not been able to materialize earnings through property development up to the desired level despite the existence of separate land management cell in each zone on account of the following constraints:-

(i) the primary mandate of the Railways is to carry goods and passengers and the property development becomes the secondary function of the Railways;

(ii) property development is a very sensitive to market forces which requires expertise in real estate management;

(iii) the Railways not having any expertise in real estate development as a full time activity;

(iv) resistance by the State Govt. to change in land use by the Railways other than operation of trains;

(v) non-clearance of development schemes on railway land/building by local authorities;

(vi) absence of clear cut provision in the Railway Act, 1989 for commercial utilisation/development of Railway land.

1.4 Emphasizing the need for creation of a full time agency like Rail Land Development Authority to look after the commercial utilisation of vacant land, the Chairman, Railway Board submitted before the Committee as under:-

> "We have got 43,000 hectares of vacant land. Our purpose is that wherever there is a vacant land, we should be able to commercially exploit the same. But it needs a dedicated organization. The primary function of our engineering department is entirely different. They could not spare much time for this nature of work, which needs a whole-time attention. Secondly, we are not experts in the field of property development. We need expertise. That was one of the reasons. As regards legal provisions, there is no specific provision in the Railways Act, wherein we may go in for commercial utilization of land. There is also the diffidence on the part of the State Government. They are the main impediments because of which the Indian Railways could not proceed further."

1.5 To overcome the same, the Ministry of Railways went to Cabinet to get the mandate to develop the vacant land for commercial purpose and got the approval of the latter on 8th December, 2004. Accordingly, the Ministry of Railways introduced 'The Railways (Amendment) Bill, 2004' in Rajya Sabha on 20th December, 2004 during the Third Session of Parliament (14th Lok Sabha).

1.6 The proposed Bill envisages amendment to the existing Railway Act, 1989 with a view to providing (i) the constitutional mandate to develop the vacant land for commercial purpose and (ii) establishing a Rail Land Development Authority (RLDA) to take over exclusively the development of vacant lands and space above such lands. The Bill in question

has 4 Clauses. Clause-1 deals with its short title and commencement Clause-2 deals with Amendment of Section 2 of the Railways Act, 1989 (Chapter-I, Definitions), Clause-3 deals with the insertion of a new Chapter IIA in the Railways Act, 1989 and Clause 4 deals with Amendment of Section 11 (Chapter-IV, Construction and Maintenance of Works) of the 1989 Act. The proposed Chapter IIA incorporates the provision for establishment of Rail Land Development Authority, its composition, terms and conditions of appointment of the office bearers, functions of Authority, powers of the Authority, procedure of transaction of business, appointment of officers and employees and their salaries and power of Authority to make regulations.

1.7 In the statement of objects and reasons of the Bill, the Ministry of Railways have stated that the development of property being a specialised field it requires expertise, marketing acumen, innovative strategies and full time devotion. Against this backdrop, the Ministry considered it necessary to set up a separate authority to be called the Rail Land Development Authority under the Railways Act, 1989 which would exclusively deal with commercial development of railway land and air space above such land. It is also proposed to amend Section 11 of the Railways Act so as to include commercial utilisation of railway land as part of the work of the Railways.

1.8 The proposed Authority will focus on developing only those vacant land which have potential for commercial development. The Ministry have assured the Committee that only those vacant lands which are not required atleast for next 15-20 years for rail operations would be considered for commercial purposes. The RLDA would also assist the Railway for certification of land plans from Revenues Authorities.

1.9 The Railways will utilise the earnings realized from commercial development of Railway Land for various developmental works especially passenger amenities for the benefit of rail users.

1.10 According to the Ministry of Railways the thrust of the commercial development would be as follows:

(a) To generate revenue from non-traditional source.

(b) To beautify the station surroundings and improve the general ambience and aesthetics through commercial use of idle space;

(c) To provide modern amenities to the rail user;

(d) To reduce traffic congestion in the station circulating areas by remodeling of station buildings and adjoining space thereby facilitating efficient passenger handling and improving customer satisfaction;

(e) To check/prevent encroachments in the prime land by putting the land to commercial use. The authority would liaison with State Government for expeditious eviction of encroachment by the railway on land to be commercially utilised.

CHAPTER – II

RAIL LAND DEVELOPMENT AUTHORITY

2.1 Till now Engineering Department of the Railways has been in-charge of land management and deals with commercial usages of vacant lands. The Department took up property development in the year 2001 as commercial use of land. However, due to certain constraints as mentioned in the preceding Chapter, sufficient confidence among the investors/developers could not be generated and as a result no substantial headway could be made. Property development is a specialised field which needs full time attention and calls for flexibility to mould strategies in tune with the hyper sensitive real estate market. Railways, being primarily involved in the core business of traffic cannot have the requisite flexibility to respond quickly to the varying demands of real estate market. Moreover, the property development schemes/plans require approval of the local/statuory bodies, which require close interaction with such bodies. Against this back ground, the Ministry of Railways have desired to go for creation of an exclusive body to be called, Rail Land Development Authority (RLDA) which can take care of development of vacant rail land on full time basis. The Engineering Department of the Railways will deal with all matters except the property development.

Definition

2.2 In the Bill a new clause 32A is proposed to be inserted in Section 2 of the Railways Act, 1989 defining the Railway Land as under:-

> "railway land' means any railway land other than falling under railway track;"

2.3 On being pointed out that it has not been properly defined. The representative of the Department of Legal Affairs, Ministry of Law & Justice stated:-

> "Clause 31 of Section 2 is related to the definition clause. There are various definitions. Railway land has not been defined but the definition of the word 'railway' includes land also…. as all lands within the fences or other boundary marks indicating limits of the land appurtenant to a railway. Railway includes a land also which is within the boundary of the railway."

2.4 When further enquired whether there is any need for a separate definition of railway land in the Bill whereas the same has been defined in the clause 31(a) of The Railways Act, 1989, the representative of the Ministry of Law & Justice stated:-

> "In the light of the object of this Bill as to whether it needs a special definition. Railways must have expressed the desire that Railways should be clearly defined and therefore the Legislative Department has provided this particular formulation of the railway land. But if this Committee wants that it is not sufficient and I also feel that the word 'railway land' has not been defined. So, in the definition itself, you are using the word 'railway land'. Then it is subject to improvement…. We can use it with better formulation as given in clause 32(a) in consultation with legislative Department in the light of the purpose for which this Act is being passed."

Functions

2.5 The RLDA will focus on generation of non-tariff resources through commercial development of vacant lands. The Authority would gradually acquire the required expertise and start providing consultancy later on. The main functions of the Authority as per the Clause 4D of the proposed Bill would be as under:-

(1) The Authority shall discharge such functions and exercise such powers of the Central Government or a railway administration in relation to the development of railway land and as are specifically assigned to it by the Central Government.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may assign to the Authority all or any of the following functions, namely:-

- (i) to prepare scheme or schemes for use of railway land in conformity with the provisions of this Act;
- (ii) to develop railway land for commercial use as may be entrusted by the Central Government or a railway administration for the purpose of generating revenue by non-tariff measures;
- (iii) to develop and provide consultancy for construction or management services and undertake operation in India in relation to the development of land and property;

(iv) to carry out any other work or function as may be entrusted to it by the Central Government, or a railway administration by order in writing.

Composition

2.6. As per the Bill, RLDA would be set up with skeleton staff. Its composition as incorporated in clause 4Bof the Bill would be as follows:-

(1) The Authority shall consist of a Chairman, Vice-Chairman and not more than four members including experts from out side the railway administration.

(2) The Member Engineering, Railway Board shall be the Chairman, ex-officio of the Authority.

(3) The Vice-Chairman and the other members shall be appointed by the Central Government and shall be chosen from amongst persons who are or have been working in the Civil Engineering, Finance and Traffic disciplines of a railway administration and having adequate experience in the relevant discipline as the Central Government may consider necessary.

2.7 Regarding the Composition, the Chairman, Railway Board further explained the same during the course of evidence as under:-

"Member Engineering will be Ex-Officio Chairman. He will be assisted by the Vice-Chairman and four members. Out of these four members, three will be from the discipline of civil engineering, traffic and finance. The fourth member would be an expert from outside having expertise in real estate planning and development. Their job specification, job requirement, qualification etc. will be spelt out; the Authority will create the rules and regulations"

2.8 Advice of each Member will be given equal weightage and decisions would be taken in the Board meetings as per the rules and regulations to be framed later. However, normally these decisions would be taken by consensus as a rule and by majority as an exception. Chief Executive of the Authority would be the Vice Chairman who will be a technocrat having wide experience in land management, construction of building and real estate.

Administrative expenditure

2.9 According to the Ministry the expenditure on establishment will be insignificant as compared to earnings. The Financial Memorandum attached with the Bill states that the recurring expenditure of the Authority is estimated to be Rs.75 lakhs per annum approximately which will be defrayed out of the Consolidated Fund of India.

Modus Operandi

2.10 The working of the proposed Rail Land Development Authority will be as under:-

(i) Potential sites for commercial utilization shall be identified either by Railway or by the Authority itself. If specific land is not required for operational purposes/future expansion, then the site will be given to RLDA for commercial development.

(ii) RLDA will carry out necessary market survey to assess the potential and work out the best mode of commercial development from the angle of revenue returns and accordingly proceed with the bidding process.

(iii) Developer will be finalized through transparent open bidding process. All the earnings realized will go to Railways.

(iv) An **agreement for development** will be executed between RLDA (on behalf of Ministry of Railways) and the developer. **Lease agreement** for the developed property will be executed between Railways (the owner of the land) and the developer.

2.11 Above activities are proposed to be executed by RLDA operating from Delhi. This is possible as the role of the Railway, after identification and handing over the site to RLDA, is minimal till the development plans for the commercial use of the site are made and such stage would come only after finalization of bids and entrusting the site to the developer. For execution of the commercial project, developer will be entirely responsible for doing the job as per the local building by – laws and laid down specifications. Such project cannot be put to use without clearance of local authorities, who are required to be satisfied whether the project conforms to the laid down guideline, the developer will ensure total compliance. Apart from this, RLDA, at that stage may also engage contract supervisors for overseeing the project(s). Depending upon the volume of work load, RLDA may appoint field coordinating officers who will liaison with various Zonal Railways and the concerned States in regard to commercial development falling in that region.

Land Lease

2.12 The terms and conditions of lease would be the same as one being followed at present. Presently, commercial development on railway land is being done as per draft lease agreement vetted by Ministry of Law & Justice. As per this, land can be leased for commercial development upto 60 years extendable upto 90 years. To get back the leased land by the Railways for its urgent operational requirement in midway of lease period, necessary premature termination clause has been kept in the lease agreement as under:-

> "In case the lessor needs the space so leased to the lessee at any time prior to the expiry of the lease period, the lessor reserves the right to acquire possession of the premises after giving one hundred and eighty days notice to this effect to the lessee. On such premature termination of the lease due to lessor's requirement, the lessee shall be entitled for compensation equivalent to the proportionate premium for the unexpired period of the lease together with simple interest @ 12%."

2.13 Lease period is normally kept longer for major sites where developers investment would be substantial. However, only such Railway land parcels which are not required in foreseeable future, would be taken up for commercial development subject to its market potential. For commercial development of built-up space, lease period would be much shorter.

2.14 Clarifying whether the land leased to the Railways by the State Governments can be further leased to the developers, the representative of the Department of Legal Affairs, Ministry of Law & Justice submitted as under:

> "The State Governments must have allotted that land through a lease deed or a lease agreement. If in that lease agreement there was a condition that you cannot divert the use of this land for any other purpose, then the party who has been granted that land by the State Government will have to surrender the excess land or whatever land. They cannot sell it to any other party because they have got a limited right over it. So, it is a question of fact… If there is a condition in the agreement of sale or lease by which the lease has been allotted to the Railways, then they (Railways) will be bound by those terms and conditions."

CHAPTER – III

RAILWAY LAND USAGE, MANAGEMENT AND ENCROACHMENT

Land Usage

3.1 Over the years, the Railways have acquired 4.23 lakh hectare of land for their primary mandate of operations of trains. Some of these lands have been provided free of cost by the State Governments or on nominal charges and rest of the lands have been acquired for the Railways by State Governments from the general public for public purposes after paying compensation. Some of the lands are still on long term lease to the Railways. The Railways have taken these lands for public purpose i.e. rail carriage. The Railways are the owner as well as the lessee of the lands available with them. The Engineering Department in the Railways are the custodian of the lands available with the Railways. At present there is no legal provision in the existing Railway Act, 1989 to develop the rail land for the purpose other than the operation of trains.

3.2. Elaborating on the need to change the land usage of the vacant land for commercial purposes, the Chairman Railway Board stated as under:-

> "We get the land for the public usage…. We have taken lands from State Governments. We have got the Government land also. The State Government can say that once you have changed the land use and it is not required by the Railways, then you have to return it back. It is a very valid problem which we have been facing….the relevant part, which we are going to amend is Chapter IV in Section 11 of the Principle Act – The Railway Act (1989). In Section 11 of the Principle Act, after Clause (d), the following clause shall be inserted, '(da) developing any Railway land for commercial use'. This is the main part. When we get powers under the Railway Act, then it can supersede all the provisions of the State Governments. When this Railway Act comes into force and it has been effected, nothing can supersede it so far as public carriage is concerned."

3.3. Responding to a query of the Committee whether the commercial utilisation of surplus railway land can be encompassed within the 'public purpose', the representative of the Ministry of Law & Justice elaborated as under:-

> "It can be a public purpose. But it all depends on the facts of the case…… If the Railways have got some land and if they propose to put up a commercial complex to give some facilities to the railway travellers and the persons living in that area, it would come within the use of public because it is going to give facility for the use of public. Then, they will earn revenue also, which will be utilised for improving the working of the Railways. Then, they will have to less depend on ticket fares and other things to run the Railways."

Land Management

3.4. All the Zonal Railways have been advised by the Railways Board in September, 2001 to carve out their land management cells as per their requirements and prevailing situation. Land management cells have been carved out of the Engineering Department of the Zonal Railways. The Cell is managed by an Senior Administrative Grade officer and supported by a Junior Administrative Grade officer along with Law Advisor and other supporting staff. The Cell deals with the issue of land management, which include commercial licensing, prevention of encroachments, maintenance of land records etc. and related court cases. They also look after works not connected with land management.

3.5. The Standing Committee on Railways have consistently recommended in their Reports for setting up of a separate Rail Land Management Authority for proper management of land records, to prevent land encroachments, to get back the encroached lands to the Railways and commercial use of vacant land. However, the Ministry of Railways have expressed their reservation towards the setting up of such Land Management Authority instead the Ministry proposed for setting up of Land Development Authority. Substantiating their logic behind it, the Ministry of Railways stated.

> "The Railway is the owner of its land and its development rights alone will be transferred to RLDA. This is necessary as transferring of vacant land having potential, would invite state taxation (running into huge amount) which otherwise is exempted for the Railway as per the constitutional provision. The removal of encroachment from the Railway land is done under Public Premises (Eviction of unauthorised

occupation) Act (PPE Act) 1971. As per the provision of the Act, various notices to the encroachers are to be issued by the Estate Officers (they are nominated from within the Railway system through notification as per the Act) and served by custodian of the land which is Engineering Department on Indian Railways. Inspector In-charge/Assistant Engineer in the Division is the custodian of land in their jurisdiction, who draws the authority for eviction as per the Act. Many a times the encraocher goes to the court against estate officer's order, which is to be fought by the Railway administration (custodian of the land). Since RLDA will not be owner of the Railway land, initiating/processing/execution of eviction orders by RLDA will not be legally tenable. Apart from this, Railways have also been using Section 147 of the Railway Act-1989 for removal of soft encroachments with the help of RPF and local police directly, which cannot be done by RLDA for the aforesaid reasons. Further, 4.23 lakhs hectares of Railway land spread across the country is being looked after by the cross section of staff and officers (custodian of the Railway land). They are maintaining land boundary registers, land plans, encroachment registers (duly signed by concerned departments responsible) etc. and initiate/carryout removal of encroachments. They have to make regular field visits to discharge other duties. During these field visits they inspect land position also. RLDA will have to create a mammoth parallel organisation to deliver the same. Hence, entrusting the task of management/removal of encroachment was neither found legally tenable nor financially/organisationally prudent. However, the encroachment of Railway land will be checked/prevented once it is put to alternative use by RLDA. Also, RLDA will be associated in liaisoning with State Government for removing encroachments on such land which are identified for commercial development. Focus of the activities, to be handled by RLDA will be generation of revenue through commercial development of land."

Encroachment of Rail Lands

3.6. About 2240 hectares of land, that is approximately 0.47% of the total land of the Railways is under encroachment. The break up of the encroached land and vacant land, which is maintained by Railways Zone-wise and not State-wise is given below:-

(in hectares)

Railways	Land under encroachment	Vacant Land	Total
Central Railway	83.49	2478.05	27580.32
Eastern Railway	91.81	1516.84	20764.81
East Central Railway	32.49	4453.82	33611.71
East Coast Railway	25.14	188.43	12620.27
Northern Railway	1155.71	2898.45	38864.19
North Central Railway	55.01	713.39	15052.83
North Eastern Railway	97.77	5874.64	25648.21
Northeast Frontier Railway	186.59	3472.8	43230.14
North Western Railway	23.28	374.13	23518.99
Southern Railway	71.7	2287	25537.77
South Central Railway	48.5	3903.14	21588.19
South Eastern Railway	207.26	83.95	43113.61
South East Central Railway	58.14	3260	24174.76
South Western Railway	23.9	2853.9	12925.28
Western Railway	70.5	7458.56	34447.48
West Central Railway	8.11	1030.23	23783.72
Total	2239.4	42847.3	424899.97

3.7. The Railways follows the provision of PPE Act, 1971 in case of hard encroachments and Section 147 of Railways Act, 1989 for soft encroachments to get their land evicted from unauthorised occupation. They also take preventive steps to avoid further encroachment. Railways' performance in removal of encroachments is being monitored in Board's Office. Joint Procedure Orders have been issued by the Zonal Railways to ensure better and effective coordination between various Departments including Security Departments in dealing with encroachments. Responsibilities have been clearly defined in this Order and Railways have started making effective use of Section 147 of the Railways Act, 1989 to deal with encroachments. RPF Rules have been amended to ensure active help from RPF in removal of encroachments. Railways' performance in removal of encroachments is now being monitored in Board's office. Amendments to PPE Act 1971 have been proposed to equip the Estate Officers with enhanced powers in order to deal effectively with encroachers. Ministry of Urban Development have forwarded the negative decision of the Ministry of Law & Justice. The matter has been referred again to Ministry of Urban Development with a copy to Ministry of Law & Justice for reconsideration. This is under process.

CHAPTER - IV

Recommendations/Observations

4.1 In the backdrop of the emphasis by the Planning Commission in Ninth Plan document for commercial utilisation of surplus land and the air space above such land to supplement the internal resources of the Railways, the latter started the process of identification, planning and development of such prospective lands to boost their non-tariff revenues way back in 2001-02. However, due to some inherent constraints viz absence of clear-cut mandate in The Railways Act, 1989 empowering the Railways to earn revenues by developing surplus lands for commercial purpose, lack of adequate expertise in Railways about development of property, resistance by the State Governments for use of railway land other than the operation of trains, non-clearance of development schemes on such railway lands by local authorities etc., the Railways could not make much headway in this direction. To overcome these constraints, the Railways approached the Cabinet to get the mandate to develop the vacant land for commercial purposes and the Cabinet approved the same on 8th December, 2004. In pursuance to that, the Ministry introduced The Railways (Amendment) Bill, 2004 in Rajya Sabha in December, 2004 during the Third Session of Parliament (14th Lok Sabha) to get legislative sanction to develop surplus lands and air space above such lands for commercial purpose.

The proposed Bill envisages the establishment of a Rail Land Development Authority by amending the existing Railways Act, 1989 to exclusively deal with the development of surplus land lying with Railways and not required at least for next 15-20 years for railway operations.

4.2 The Committee heard the views of the representatives of the Ministry of Railways and the Ministry of Law & Justice on the Bill so as to form a balanced view on the subject. After in depth deliberations, the Committee came to the conclusion that development of surplus land for commercial purpose does not violate the sanctity of the mandate given to the Railways, rather it supplements the railways revenue which can help the Railways to provide better passenger amenities to the railway commuters.

4.3 The Bill seeks to insert a new clause, namely, clause 32A in Section 2 of the Railway Act, 1989 for the purpose of defining the term 'railway land'. This clause defines the railway

land as "any railway land other than falling under the railway track". This is a clumsily worded definition which can only create confusion. Apart from the glaring grammatical and structural error it contains, this definition does not in fact define the railway land. The word 'any railway land' do not constitute a precise definition of railway land.

The Committee note that Section 2 (31) of the Railway Act, 1989 contains the definition of the term 'railway' which includes the railway land also. Sub-clause (a) of Clause 31 says that Railway includes 'all lands within the fences or other boundary marks indicating the limits of the land appurtenant to a railway'.

The Committee feel that this definition of railway land is correct, comprehensive and unambiguous and therefore a separate definition of this term is not necessary. Further to give a definition of the same term at two places in the same Section is a example of poor draftsmanship. The Committee, therefore, suggest that Clause 32A should adopt the same definition of land as is given in Clause 31(a) of the Railway Act.

4.4 Clause 4B of the Bill deals with the composition of the proposed Railway Land Development Authority. As per Clause 4B(1) the Authority shall consist of a Chairman, Vice-Chairman and not more than four members including expert from outside the railway administration. The Committee have been informed that the expert on the panel should have expertise in real estate planning and development. However, Clause 4B(3) states 'The Vice-Chairman and the other members shall be appointed by the Central Government and shall be chosen from amongst persons who are or have been working in the Civil Engineering, Finance and Traffic disciplines of railway administration and having adequate experience in the relevant discipline as the Central Government may consider necessary.' This would mean that the Vice Chairman and all the other members would be drawn from the different disciplines of the Railway, whereas Clause 4B(1) of the Bill suggest that one of the four members will be an expert from outside the Railways. The expert from outside the Railway is being brought in mainly to deal with the development of land for which no expertise is available in the Railways. The Committee find that both the Clauses are thus contradictory to each other. They recommend that the Sub Clause(1) and (3) of the Clause 4B of the Railways (Amendment) Bill, 2004 be revised and redrafted in order to remove the glaring contradiction before the Bill is placed in Parliament for adoption.

4.5 Regarding the functions of the Railway Land Development Authority in the Bill, the Committee observe that in Clause 4D(1), 4D2(ii) and 4D2(iv) it has been respectively stated that the Authority shall discharge such functions/exercise such powers of the Central Government or a railway administration, to develop railway land for commercial use as may be entrusted by the Central Government or a railway administration and to carry out any other work or function as may be entrusted to it by the Central Government or a railway administration. The words "railway administration" used in the Clause are redundant because the railway administration is subsumed in the term the Central Government. The Central Government is the authority which creates this body and vests the duties and functions in it. Further the words 'a railway administration' used in this Clause are inappropriate. Under the Railway Act, 1989 'railway administration' is defined as General Manager of the Zonal Railways. The Rail Land Development Authority is a higher authority with the Member Engineering of the Railway Board as its Chairman and it is quite inappropriate to say that it will exercise the powers and functions of the General Manager of a Zonal Railway which is a lower authority.

The Committee, therefore, recommend that the words 'a railway administration' should be deleted from Clause 4D(1) and 4D(2) (ii) and (iv).

4.6 In the course of examination of the proposed Bill, the Committee came across the fact that some States provided land to the Railways free of cost for laying railway lines, establishing production units and other operational requirements etc. in their respective States. A part of such lands is still lying unused or not required for operational purposes in the foreseeable future. The Committee are of the view that such lands, if identified as surplus, may not be utilised for commercial purpose and be considered for returning it to the concerned States for some public use such as roads, construction of buildings for public utility etc.

4.7 While preparing the schemes for development of railway land, the Railways should take a humanitarian view of settlement colonies that have existed for over 50-60 years. In case of vendors operating on the railway land close to tracks for long time, Government may, after developing such lands, consider providing them space therein on a reasonable rent.

New Delhi:

10th May, 2005
20 Vaisakha, 1927 (Saka)

(BASUDEB ACHARIA)
CHAIRMAN
Standing Committee on Railways

MINUTES OF THE EIGHTEENTH SITTING OF STANDING COMMITTEE ON RAILWAYS (2004-05)

The Committee sat on Monday, the 7th February, 2005 from 1130 hours to 1330 hours in Committee Room 'D', Parliament House Annexe, New Delhi. As the Chairman could not join the Committee at the start of the meeting, the Committee chose Shri Subrata Bose, MP to act as Chairman for the sitting of the Committee under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

PRESENT

SHRI SUBRATA BOSE - In the Chair

SHRI BASUDEB ACHARIA - CHAIRMAN

MEMBERS

LOK SABHA

3. Shri Dhirendra Agarwal
4. Shri Ajaya Kumar
5. Shri Kishan Lal Diler
6. Smt. Paramjit Kaur Gulshan
7. Shri Mahesh Kanodia
8. Shri C. Kuppusami
9. Smt. Kalpana R. Narhire
10. Shri Kishan Singh Sangwan
11. Dr. Arun Kumar Sarma

RAJYA SABHA

12. Shri Karnendu Bhattacharjee
13. Maulana Obaidullah Khan Azmi
14. Shri Lalit Kishore Chaturvedi
15. Shri Su. Thirunavukkarasar
16. Shri Tarini Kanta Roy
17. Shri Abani Roy

SECRETARIAT

1.	Dr. (Smt.) P.K. Sandhu	-	Joint Secretary
2.	Shri V.S. Negi	-	Deputy Secretary
3.	Smt. Abha Singh Yaduvanshi	-	Under Secretary

Representatives of the Ministry of Railways (Railway Board)

1.	**Smt. Vijayalakshmi Viswanathan**	**Financial Commisioner (Railways) & Ex-officio Secretary to the Govt. of India.**
2.	**Shri S.P.S. Jain**	**Member (Engineering) & Ex-officio Secretary to the Government of India.**

2. At the outset, the acting Chairman welcomed the Members and the representatives of the Ministry of Railways to the sitting of the Committee. Thereafter, the representatives of the Ministry briefed the Committee about the scope and utility of – 'The Railways (Amendment) Bill, 2004' regarding setting up of Rail Land Development Authority. The Members raised certain points for clarification. The representative were advised by the Committee to submit a comprehensive document clarifying the apprehensions expressed by the Members of the Committee within a week.

3. In the meantime, the Chairman, joined the Committee and the Committee then considered the draft Report on 'Rail Network in North East Region – Expansion and Investment' and adopted the same with minor amendments as per Annexure. The Committee also authorised the Chairman to finalize the Report after making consequential changes, if any, arising out of the factual verification by the Ministry of Railways or otherwise, and to present the Report to both the Houses of Parliament.

4. A verbatim record of proceedings has been kept.

The Committee then adjourned.

ANNEXURE

Sl. No.	Page	Para	Line	
1.	27	1	4	Instead of - The three divisions of North East Frontier Railway viz. Rangia, Lumding and Tinsukia Read - 'The Rangia, Lumding, Tinsukia Divisions and a portion of Alipurduar' division of North East Frontier Railway.
2.	28	3	second from below	After 'should be' add – 'given priority and'
3.	30	6	last line	Add - 'The Committee also desire that the Railway Track from New Jalpaiguri to Bongaigaon via Jalpaiguri Road - New Cooch Behar (Main Line) may also be considered for doubling.'
4.	31	7	last line	Add – 'In case the funding of the project from World Bank does not materialise the Railways should approach the Ministry of Finance to declare it as a National Project.'

MINUTES OF THE NINETEENTH SITTING OF STANDING COMMITTEE ON RAILWAYS (2004-05)

The Committee sat on Thursday, the 17th February, 2005 from 1500 hours to 1700 hours in Committee Room No. 'G-074', K-Block, Parliament Library Building, New Delhi.

PRESENT

SHRI BASUDEB ACHARIA - CHAIRMAN

MEMBERS

LOK SABHA

2. Shri Ajaya Kumar
3. Shri Kishan Lal Diler
4. Smt. Paramjit Kaur Gulshan
5. Shri Mahesh Kanodia
6. Shri C. Kuppusami
7. Shri Iqbal Ahmed Saradgi
8. Dr. Arun Kumar Sarma
9. Shri Kishan Singh Sangwan

RAJYA SABHA

10. Maulana Obidullah Khan Azmi
11. Shri Lalit Kishore Chaturvedi
12. Shri Su. Thirunavukkarasar
13. Shri Tarini Kanta Roy
14. Shri Harendra Singh Malik

SECRETARIAT

Shri V.S. Negi - Deputy Secretary

REPRESENTATIVES OF THE MINISTRY OF RAILWAYS

1.	Shri R.K. Singh,	Chairman, Railway Board & Ex-officio Principal Secretary to the Government of India
2.	Ms. Vijayalakshmi Viswanathan,	Financial Commissioner, Railways & Ex-officio Secretary to the Government of India
3.	Shri S.P.s. Jain	Member Engineering & Ex-officio Secretary to the Government of India
4.	Shri R.N. Aga	Member Traffic & Ex-officio Secretary to the Government of India

2. At the outset the Chairman welcomed the Members of the Committee and representatives of the Ministry of Railways to the sitting of the Committee. Thereafter, the Committee took oral evidence of the representatives of the Ministry on the Bill 'The Railways (Amendment) Bill, 2004' seeking an amendment to the Railway Act, 1989 to set up Rail Land Development Authority. The Committee deliberated upon commercial, legal and administrative aspects regarding the proposed Rail Land Development Authority including the issue of land use right of the Railways. The Committee also decided to call the representatives of the Ministry of Law & Justice to get further clarification on the legal aspects involved in the matter. The evidence of the Ministry of Railways was concluded. The verbatim record of the proceedings has been kept.

3. After the exist of the representatives of the Ministry of Railways, the Committee considered the draft Report on the action taken by the Government on the recommendations/observations contained in the First Report of the Committee (2004-05) on Demands for Grants 2004-05 of the Ministry of Railways and adopted the same without any change/amendment. The Committee also authorized the Chairman to present the Report to both the Houses of Parliament during the ensuing Budget Session of Parliament

The Committee then adjourned.

MINUTES OF THE TWENTY FIFTH SITTING OF STANDING COMMITTEE ON RAILWAYS (2004-05)

The Committee sat on Thursday, the 28th April, 2005 from 1500 hours to 1545 hours in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

SHRI BASUDEB ACHARIA - CHAIRMAN

MEMBERS

LOK SABHA

2. Shri Dhirendra Agarwal
3. Shri Subrata Bose
4. Shri Bapu Hari Chaure
5. Shri Giridhar Gamang

RAJYA SABHA

6. Smt. Kamla Manhar
7. Shri Tarini Kanta Roy

SECRETARIAT

1.	Shri P.D.T. Achary	-	Secretary
2.	Shri V.S. Negi	-	Deputy Secretary
3.	Smt. Abha Singh Yaduvanshi	-	Under Secretary

REPRESENTATIVES OF THE MINISTRY OF LAW & JUSTICE

1.	Shri K.D. Singh	-	Additional Secretary
2.	Shri R.K. Srivastava	-	Assistant Legal Advisor

2. At the outset, the Chairman, welcomed the Members and the representatives of the Ministry of Law & Justice to the sitting of the Committee. Thereafter, the Committee took evidence of the representatives on the subject 'The Railway (Amendment) Bill, 2004. The evidence of the Ministry of Law & Justice was concluded.

3. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE TWENTY SIXTH SITTING OF STANDING COMMITTEE ON RAILWAYS (2004-05)

The Committee sat on Tuesday, the 10th May, 2005 from 1500 hours to 1600 hours in Committee Room 'E, Parliament House Annexe, New Delhi.

PRESENT

SHRI BASUDEB ACHARIA - CHAIRMAN

MEMBERS

LOK SABHA

1. Shri Ajaya Kumar
2. Shri Bapu Hari Chaure
3. Shri Giridhar Gamang
4. Shri Anwar Hussain
5. Shri Iqbal Ahmed Saradgi

RAJYA SABHA

6. Smt. Kamla Manhar
7. Shri Karnendu Bhattacharjee
8. Maulana Obaidullah Khan Azmi
9. Shri Tarini Kanta Roy
10. Shri Abani Roy

SECRETARIAT

1.	Shri P.D.T. Achary	-	Secretary
2.	Shri V.S. Negi	-	Deputy Secretary
3.	Smt. Abha Singh Yaduvanshi	-	Under Secretary

2. At the outset, the Chairman, welcomed the Members to the sitting of the Committee. Thereafter, the Committee considered the draft Ninth Report on `The Railway (Amendment) Bill, 2004 and the Tenth Report on Action Taken by the Government on the recommendations/observations contained in the 16th Report of the Committee on 'Resource Mobilisation' and adopted the same with minor changes.

3. The Committee also authorised the Chairman to finalise the Report after making consequential changes, if any, arising out of factual verification by the Ministry of Railways or otherwise and present the same to the House.

The Committee then adjourned.